

House File 468 - Introduced

HOUSE FILE 468
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 91)

A BILL FOR

1 An Act relating to the appointment of mental health advocates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 229.1, Code 2015, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "*Advocate*" means a mental health
4 advocate.

5 NEW SUBSECTION. 14A. "*Region*" means a mental health and
6 disability services region formed in accordance with section
7 331.389.

8 Sec. 2. Section 229.9A, Code 2015, is amended to read as
9 follows:

10 **229.9A Advocate informed.**

11 The ~~court shall direct the clerk to~~ shall furnish the
12 ~~advocate of the respondent's county of residence with appointed~~
13 for the county in which an application is completed a copy of
14 the application and any order issued pursuant to section 229.8,
15 subsection 3. The advocate may attend the hospitalization
16 hearing of any respondent for whom the advocate has received
17 notice of a hospitalization hearing.

18 Sec. 3. Section 229.12, subsection 2, Code 2015, is amended
19 to read as follows:

20 2. All persons not necessary for the conduct of the
21 proceeding shall be excluded, except that the court may
22 admit persons having a legitimate interest in the proceeding
23 and shall permit the advocate from the ~~respondent's county~~
24 ~~of residence~~ where the respondent is located to attend the
25 hearing. Upon motion of the county attorney, the judge may
26 exclude the respondent from the hearing during the testimony of
27 any particular witness if the judge determines that witness's
28 testimony is likely to cause the respondent severe emotional
29 trauma.

30 Sec. 4. Section 229.19, Code 2015, is amended to read as
31 follows:

32 **229.19 Advocates — appointment — duties — employment and**
33 **compensation — ~~state and county liability.~~**

34 1. a. In each county ~~with a population of three hundred~~
35 ~~thousand or more inhabitants~~ the board of supervisors shall

1 appoint an individual who has demonstrated by prior activities
 2 an informed concern for the welfare and rehabilitation of
 3 persons with mental illness, and who is not an officer or
 4 employee of the department of human services ~~nor, an officer~~
 5 or employee of a region, an officer or employee of a county
 6 performing duties for a region, or an officer or employee of
 7 any agency or facility providing care or treatment to persons
 8 with mental illness, to act as an advocate representing the
 9 interests of patients involuntarily hospitalized by the court,
 10 in any matter relating to the patients' hospitalization or
 11 treatment under section 229.14 or 229.15. ~~In each county with~~
 12 ~~a population of under three hundred thousand inhabitants, the~~
 13 ~~chief judge of the judicial district encompassing the county~~
 14 ~~shall appoint the advocate.~~

15 b. ~~The committing court or, if the advocate is appointed~~
 16 ~~by the county board of supervisors, the board shall assign~~
 17 ~~the advocate appointed from a patient's county of residence~~
 18 ~~to represent the interests of the patient. If a patient has~~
 19 ~~no county of residence or the patient is a state case, the~~
 20 ~~court or, if the advocate is appointed by the county board of~~
 21 ~~supervisors, the board shall assign the advocate appointed~~
 22 ~~from the county where the hospital or facility is located~~
 23 ~~to represent the interests of the patient shall assign the~~
 24 advocate for the county where the patient is located. A county
 25 or region may seek reimbursement from the patient's county of
 26 residence or from the region in which the patient's county of
 27 residence is located.

28 c. The advocate's responsibility with respect to any patient
 29 shall begin at whatever time the attorney employed or appointed
 30 to represent that patient as respondent in hospitalization
 31 proceedings, conducted under sections 229.6 to 229.13, reports
 32 to the court that the attorney's services are no longer
 33 required and requests the court's approval to withdraw as
 34 counsel for that patient. However, if the patient is found to
 35 be seriously mentally impaired at the hospitalization hearing,

1 the attorney representing the patient shall automatically be
 2 relieved of responsibility in the case and an advocate shall
 3 be assigned to the patient at the conclusion of the hearing
 4 unless the attorney indicates an intent to continue the
 5 attorney's services and the court so directs. If the court
 6 directs the attorney to remain on the case, the attorney shall
 7 assume all the duties of an advocate. The clerk shall furnish
 8 the advocate with a copy of the court's order approving the
 9 withdrawal and shall inform the patient of the name of the
 10 patient's advocate.

11 *d.* With regard to each patient whose interests the advocate
 12 is required to represent pursuant to this section, the
 13 advocate's duties shall include all of the following:

14 (1) To review each report submitted pursuant to sections
 15 229.14 and 229.15.

16 (2) If the advocate is not an attorney, to advise the court
 17 at any time it appears that the services of an attorney are
 18 required to properly safeguard the patient's interests.

19 (3) To be readily accessible to communications from the
 20 patient and to originate communications with the patient within
 21 five days of the patient's commitment.

22 (4) To visit the patient within fifteen days of the
 23 patient's commitment and periodically thereafter.

24 (5) To communicate with medical personnel treating the
 25 patient and to review the patient's medical records pursuant
 26 to section 229.25.

27 (6) To file with the court quarterly reports, and additional
 28 reports as the advocate feels necessary or as required by the
 29 court, in a form prescribed by the court. The reports shall
 30 state what actions the advocate has taken with respect to each
 31 patient and the amount of time spent.

32 (7) To utilize the related best practices for the duties
 33 identified in this paragraph "*d*" developed and promulgated by
 34 the judicial council.

35 *e.* An advocate may also be ~~appointed~~ assigned pursuant to

1 this section for an individual who has been diagnosed with a
2 co-occurring mental illness and substance-related disorder.

3 2. The hospital or facility to which a patient is committed
4 shall grant all reasonable requests of the advocate to visit
5 the patient, to communicate with medical personnel treating
6 the patient, and to review the patient's medical records
7 pursuant to section 229.25. An advocate shall not disseminate
8 information from a patient's medical records to any other
9 person unless done for official purposes in connection with the
10 advocate's duties pursuant to this chapter or when required by
11 law.

12 3. ~~The court or, if the advocate is appointed by the~~
13 ~~county board of supervisors, the board shall prescribe~~
14 ~~reasonable compensation for the services of the advocate. The~~
15 ~~compensation shall be based upon the reports filed by the~~
16 ~~advocate with the court~~ the duties performed by the advocate
17 and in accordance with the personnel policies set forth by
18 the board for county employees. ~~The advocate's compensation~~
19 ~~shall be paid by the county in which the court is located,~~
20 ~~either on order of the court or, if the advocate is appointed~~
21 ~~by the county board of supervisors, on the direction of the~~
22 ~~board. If the advocate is appointed by the court, the advocate~~
23 ~~is an employee of the state for purposes of chapter 669. If~~
24 ~~the advocate is appointed by the county board of supervisors,~~
25 ~~the~~ The ~~advocate is an employee of the county for purposes~~
26 ~~of chapter 670. If the patient or the person who is legally~~
27 ~~liable for the patient's support is not indigent, the board~~
28 ~~shall recover the costs of compensating the advocate from that~~
29 ~~person. If that person has an income level as determined~~
30 ~~pursuant to section 815.9 greater than one hundred percent~~
31 ~~but not more than one hundred fifty percent of the poverty~~
32 ~~guidelines, at least one hundred dollars of the advocate's~~
33 ~~compensation shall be recovered in the manner prescribed by~~
34 ~~the county board of supervisors. If that person has an income~~
35 ~~level as determined pursuant to section 815.9 greater than~~

1 ~~one hundred fifty percent of the poverty guidelines, at least~~
2 ~~two hundred dollars of the advocate's compensation shall be~~
3 ~~recovered in substantially the same manner prescribed by the~~
4 ~~county board of supervisors as provided in section 815.9.~~

5 4. The state mental health and disability services
6 commission created in section 225C.5, in consultation with
7 advocates and county and judicial branch representatives, shall
8 adopt rules pursuant to chapter 17A relating to advocates that
9 include but are not limited to all of the following topics:

- 10 a. Quarterly and annual reports.
11 b. Data collection requirements.
12 c. Juvenile patient representation.
13 d. Grievance procedures.
14 e. Conflict of interest provisions.
15 f. Workforce coverage.
16 g. Confidentiality.
17 h. Minimum educational requirements.
18 i. Caseload criteria.
19 j. Caseload audits.
20 k. Quality assurance measures.
21 l. Territory assignments.

22 5. An advocate appointed by the chief judge of a judicial
23 district or by the county board of supervisors prior to July
24 1, 2015, shall be considered to be appointed by the county
25 board of supervisors on July 1, 2015, as required in subsection
26 1. Such an advocate shall be compensated at a minimum at the
27 advocate's wage and benefit level in place immediately prior to
28 July 1, 2015.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill relates to the appointment of mental health
33 advocates.

34 Under current law, the appointment of a mental health
35 advocate to represent the interests of a person involuntarily

1 hospitalized under Code chapter 229 is made by either the
2 county board of supervisors in a patient's county of residence
3 if the county has a population of 300,000 or more, or by the
4 chief judge of the judicial district if the patient's county
5 of residence has a population under 300,000. A mental health
6 advocate is paid by the appropriate county.

7 The bill amends this current law to eliminate the court
8 appointment of mental health advocates and specifies that all
9 mental health advocate appointments shall be made by the county
10 board of supervisors. The bill specifies that certain officers
11 or employees shall not be assigned to be an advocate. The
12 court that involuntarily commits a person under Code chapter
13 229 is required to assign to the person the advocate for the
14 county where the patient is located.

15 A county or region may seek reimbursement from the patient's
16 county of residence or from the region in which the patient's
17 county of residence is located. Reasonable compensation
18 for the advocate's services shall be based upon the duties
19 performed by the advocate and in accordance with county
20 personnel policies. All advocates are considered to be county
21 employees.

22 The bill directs the state mental health and disability
23 services commission, in consultation with advocates and county
24 and judicial branch representatives, to adopt rules relating
25 to advocates and specifies topics to be included in rulemaking
26 including conflict of interest provisions.

27 The bill provides that an advocate appointed by the court
28 or by a county board of supervisors prior to July 1, 2015,
29 shall be considered to be appointed by the county board
30 of supervisors on July 1, 2015. Such advocates shall be
31 compensated, at a minimum, at the advocate's wage and benefit
32 level in place immediately prior to July 1, 2015. The bill
33 makes conforming changes to Code sections 229.1 (definitions),
34 229.9A (certain information furnished to an advocate), and
35 229.12 (advocate attendance at hospitalization hearing).